

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
October 14, 2014
7:00 p.m.

Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Cynthia Garnholz, Mark Winings, Joanne Boulton, Alex Berger III, and Rich Lintz.

Mayor Sanger
City Manager Owens
City Attorney O'Keefe

Alderman Winings moved to approve the September 23, 2014 minutes. Alderman Garnholz seconded.

The motion to approve the minutes passed unanimously on a voice vote.

CERTIFICATION OF RESULTS OF EXAMINATION OF REFERENDUM PETITIONS

City Clerk Frazier gave the following statement: *"It is the duty of the City Clerk to examine referendum petitions filed with my office and certify the results of that examination to the Board of Aldermen. This is a brief summary of the detailed written certification report I have circulated to the Mayor and Board and mailed to the person who filed the petitions.*

On October 7, 2014, I received documents purporting to constitute petitions for referenda on three Ordinances which were enacted by the Board of Aldermen on September 23, 2014. I do not yet have a report from the St. Louis County Board of Election Commissioners as to their analysis of the number of valid signatures affixed to each of the three petitions. But, for the reasons that follow, there is no reason to delay this certification.

The right to refer ordinances of the City of Clayton to the voters by the referendum process exists only by reason of the Clayton Charter. And the extent to which referendum may be applied is limited to those instances specified by the Charter.

The Clayton Charter says no ordinance passed on the day of its introduction may be referred to the voters.

The petitions filed with my office seek to submit Ordinances Number 6339, 6340 and 6341 to referendum. Each of those Ordinances was passed by the Board of Aldermen on the day of its introduction pursuant to a unanimous affirmative vote of all the Board members.

Accordingly, the Clayton Charter exempts each of the ordinances from the referendum process. The petitions purporting to seek referenda on those ordinances are substantively invalid and, therefore, insufficient.

In addition, the Clayton Charter says no ordinance on the levy of taxes may be referred to the voters.

Ordinance Number 6341 pertains to the levying of property taxes and provides for the manner and extent to which taxes are levied against specified property. Because ordinances on levying taxes are exempted from the

referendum process the petition purporting to seek a referendum on Ordinance Number 6341 is also substantively invalid on that basis and, therefore, insufficient.

Finally, Missouri long ago adopted the same principle as the vast majority of other states on the issue of the scope of the referendum power: matters which are administrative in character – as opposed to legislative in character – cannot be submitted to referendum.

Ordinance Number 6341 simply pursues and executes the plan and legislative policy which were adopted by the Board of Aldermen in Ordinance Number 6328 on July 22, 2014. It was that July Ordinance which determined that the circumstances of the state's Urban Redevelopment Corporations Law were satisfied, that the law should be applied to the property in question, that the development tools provided by the statute would be used and that adopted a plan for redevelopment of the area. Ordinance Number 6341 does no more than follow the legislative plan and policy expressed in the earlier ordinance and is, therefore, wholly administrative in character.

Because administrative ordinances are exempt from the referendum process the petition purporting to seek a referendum on Ordinance Number 6341 is also substantively invalid on that basis and, therefore, insufficient.

It is also noted that the same principles and exemptions which limit the permissible scope of referendum by petition also apply to limit any power which the Board of Aldermen may have under the Charter to voluntarily refer ordinances to the voters.

The Mayor, members of the Board of Aldermen and I have each taken an oath to uphold the Charter of the City of Clayton. Neither I nor they have the latitude to ignore the limitations imposed by the people of Clayton when they adopted this Charter for the city's governance. Therefore neither I nor they have any choice but to declare the petitions insufficient for the reasons summarized here and more fully described in my report and to take no further actions as to those petitions."

Mayor Sanger gave the following statement: "Good evening everyone. It's always nice to have our Board of Aldermen meetings well attended and we thank you for taking the time to be with us.

Before we begin, I would like to first address the reason many of you are gathered here tonight - the petition that was submitted last week regarding the Crossing development. As many of you now know, the referendum petition option is not available due to the limitations set by the City's Charter. While it is tempting at this point to read that specific section of our charter, I instead encourage all of the citizens who are interested in this matter to read the language for themselves on the city's website.

What I would like to spend a few minutes on however, is some historical information. Public scrutiny of proposed development in Clayton is not only common; it is a critical part of our review process. Almost without exception, every major project that has been built in our community has been met with resistance or concerns of some magnitude – all from concerned citizens who feared that the culture and lifestyle in our great city would be affected by the impending change.

Let me give you a few examples. I was not here when it was built, but I suspect the residents of the Barkley House were none too thrilled to see the 20 story Park Tower project built to their north, completely blocking the view on the north side of the Barkley House. And I remember clearly that when Clayton on the Park was built, there were residents of Park Tower who unhappy about their new view looking north. There was much anguish about how big the building would be and that no one would live there. Maybe some of you here remember that.

Some of you may also remember that Bob Sauer's proposal to build Maryland Walk was met with great concerns about shadows in east Clayton Gardens, prophecies of traffic jams on North Brentwood Blvd, complaints that residents in the building would be spying on Clayton Gardens homes and of course the old

standby that property values in east Clayton Gardens would tank. Of course, none of that happened, property in east Clayton Gardens never blipped and today is one of the most sought after neighborhoods in the region.

I clearly remember, and you may as well, when the Plaza at the Ritz was built – the condos and the office tower. The residents of Wydown Forest were convinced that shadows would overwhelm their neighborhood and that after dark the lights would turn night to day. Of course none of that happened and the property values in the great Wydown Forest neighborhood continue to rise.

Probably the most contentious project ever in Clayton was Metrolink. At the presentation of the route through Clayton, The old Clayton Community Center was filled to capacity with people who were convinced that it would blight our community, bring unwelcomed guests, create a noise hazard and on top of that, no one would ride it. Today Metro is part of our urban scene and our system is one of the top light rail systems in America, with people coming in from all corners of the world to study its operation. And yes, ridership continues to increase every year.

In many of the cases I have cited, changes were made based on citizen input and in fact, the purpose of the Downtown Master Plan was to focus our efforts in a direction that was fully vetted and agreed to by our community. The Crossing project does exactly that. So while I am sure it is frustrating to those who signed the petition that this is not an avenue that can be taken to oppose it, we also believe those same citizens expect that we honor the Charter that was entrusted to us by the citizens. The way we handled the Crossing development agreement, with an involved public process following by aldermanic vote, is how we handle the vast majority of city legislative efforts. The threat of legal action by a small group of Clayton residents will only result in tax money spent to defend our city charter at the expense to all citizens. The rules of the Charter were set in place not to set limitations on the community, but to empower the process.

As we have learned in this case, and have witnessed many times in the past and will continue to in our future, the business of running a city is difficult and complex. We make tough calls. We will not always agree on everything. There will be members of our community who see an expanded roadway as a traffic solution, and those who see it as a setback for a walkable neighborhood. There will be those who will see a tall building as blocking their view, and those who see it as a symbol of change and progress. As a city, we will continue to have challenges, and some people will not be happy with every decision. But what we can agree on, and what both sides of this issue demonstrate, is that this community cares deeply about its future, its success, and the quality of life for its residents.

As I have said before, and as members of the Board of Aldermen have concurred, this project does not set a precedent for future developments in any manner. We will look at every project and make a determination, based on the information at hand, whether or not there is a need for financing in terms of future taxes. We will continue to follow the guidelines and spirit of the Downtown Master Plan, but we will also carefully weigh the needs of the community. I, the Board of Aldermen, and the City of Clayton will work to balance these needs while making this a vibrant, progressive city that attracts talented young professionals from across the region and country. This project will bring in many thousands of dollars more annually in property taxes than it does now. It will bring more people to our sidewalks and into our businesses. This is the kind of exciting project envisioned for the Central Station Transit Oriented Development District, and hopefully the first of many projects that will help transform our city's future into the kind of place our sons, our daughters, nieces, nephews and grandchildren will want to live in. Our children, like many of their generation, want to live in an energetic, urban environment where they can walk, ride their bikes, or take transit to get around, and have great restaurants, bars, and shops right around the corner from their apartment. It's the kind of environment offered in cities like Austin, Raleigh, and Denver, and it's the kind of future envisioned for the future of downtown Clayton.

As has been the case in the examples I have cited, developers of The Crossing have worked with the architectural review board improve the design of the building. Thanks to your suggestions, the project has

improved both visually and functionally, and with your help, it will be a fantastic addition to the downtown Clayton market.

So thank you for your time, your interest, and your passion. We will not always agree, but we should always come together, put our differences aside and work together for the good of our city's future."

Alderman Harris made the following statement: "I too would like to thank everyone for being here tonight, not only tonight but for sharing your thoughts with us throughout this process. It's very valuable to us to hear directly from you. As many of you know I voted against the development agreement at the second reading, though at the end of all of our public hearings and discussion I thought that the incentive did not strike the right balance for our community. I believe the process did allow for the airing of many valid view points and I can attest that I and all my fellow Board members really did listen carefully to all the comments and acted with a really deep commitment on each all parts to creating the best possible future for the City of Clayton. I think it's important that we don't let this agreement set a precedent for future residential development, but this is the kind of project that will help us create a vibrant, energetic downtown district that will help support all of our property values down the road. I urge us also to not let our disagreements allow us to stagnate, we've got a lot of work to do in Clayton and one of our strengths as a community is our ability to work together and we need to continue on that path defining our success for tomorrow and for future generations. Thank you."

Alderman Garnholz made the following statement: "I also want to thank our residents for gathering with us tonight and on previous nights in sharing your thoughts with us, it's so important, and we're very fortunate to have such an engaged and informed community. But I want to take this opportunity to reiterate my support for the Crossing project. Our Downtown Master Plan, which was the product of a two-year process with significant citizen involvement and engagement, is very clear that we need more residents living downtown and we need more diverse housing options. We need stronger retail; we need mixed-use, high-density residential and commercial developments. Particularly in our Transit Oriented Development Districts near metro Link stations. our Master Plan sets out a bold new vision for downtown Clayton that will take work and community investment, but it is a vision that I firmly believe is the key to our future. I continue to believe that the Crossing project carries out beautifully the spirit, the letter and the intent of our Downtown Master Plan – that it will be an outstanding addition to our community, and that over the 20-year abatement period it will bring in millions more in tax revenue for our wonderful School District than the properties would without the development. Thank you!"

Alderman Berger made the following statement: "I would just like to join my colleagues in sharing with you my reasons for supporting the project known as the Crossing. The vision that our City has had since the late 40s and early 50s was to create a vital, vibrant, and dynamic community, the work of people who worked for our city, who volunteered, or who are elected created the most unique community in the St. Louis Metropolitan area. Several years ago, 1993 as a matter of fact, there was a Master Plan that enumerated increasing density in the downtown area as a way to continue that vibrancy. As we all recall the housing market at that time and in subsequent years revolved around condominiums and we were fortunate enough to have several condominium projects come on line. As the Mayor has sited, believe me, Maryland Walk was no "cake walk," there was controversy, there was a split vote on the Board of Aldermen, but we've been fortunate enough to move forward with a shared vision, or at least a vision that included citizen participation. We've been very, very fortunate, but now it's time to go forward. My colleague, Alderman Garnholz cited the Master Plan, the Master Plan was created with a broad range of citizen engagement over a period of two years then substantiated in the last couple years through C the Future, a Strategic Plan, were one of the main pillars in terms of focus and strategic priority is a vital and vibrant downtown. And so, I've been thinking about how to best explain this and so I know from my interface with so many of you there are two questions that have come up repeatedly and so I'd ask each one of you to consider this, how many of you have been in a conversation with someone in your family, at the dinner table, out to dinner when the question being don't you wish Clayton had more retail? Or secondly, the question, why doesn't Clayton have an entertainment venue?, why are these thing missing when we've always had those benefits. One of the steps to create solution to developing and supporting, and attracting retail is to have more people live in our downtown area. To be part of our downtown

community in a pedestrian friendly way this project known as the Crossing addresses the opportunity for us to take this very bold step forward. I think there is a high probability we've all asked ourselves those questions about retail and about entertainment venue, but I'll tell you what we all agree on, that this is our Clayton and status quo has never been the strategic objective. If you favor status quo, meaning do nothing, carry on as is, then you and I need to take a walk along Forsyth Boulevard from the intersection of Brentwood along Forsyth, along the curve to Maryland Avenue. Look left, look right boarded retail spaces, then let's walk up to North Central and I will go on Maryland Avenue and make a right turn, look to your left, look to your right along North Central Avenue, we have vacancy in our core, in our core business community we have vacancy. The opportunity to reverse that trend, to renew and enhance is based upon density in our downtown area. This project is a beginning, this project allows us the opportunity to revitalize and enhance our downtown area, and it's not a vision that is without controversy. It's not a vision that has no room for disagreement, but it's a vision that should drive us to figure out solutions. Everyone who has sent us a letter, sent us an email, called us, or forced all of us to drink more coffee than we normally do – we owe you a big thank you, it's appreciated. The reason why Clayton is so great is because we combine vision with citizen opinion and citizen engagement. In my opinion it's time that we go forward with our agenda, with our vision for our Clayton."

PUBLIC REQUESTS AND PETITIONS

Dr. Dan Phillips, addressed the Board thanking them for all of their hard work. He stated that 800 Clayton residents signed a petition to seek ballot referendum on the Crossing Development. He said that the voters should have the opportunity to make the decision and urged the Board to not take away the voters' rights. He commended Alderman Harris for her integrity and courage to stand up for Clayton and its residents.

Dixon Biel, addressed the Board stating that he does not disagree with the need for retail and mixed-use development, but is opposed to the project. He said that he himself collected 81 signatures of citizens who are opposed, but also added that maybe a handful of those citizens might have been given some misinformed information. Overall, he is not in favor of the project.

Susan Buse, President of the Clayton School Board, addressed the Board stating that on behalf of the School District she would like to reiterate their position of opposition to the tax abatement.

Jim Fredericks, 7300 Westmoreland, addressed the Board stating that he has worked in Clayton for over 20 years and has been a real estate/development attorney for over 30 years. He said that he strongly supports the approval of the project. He said that the City needs to grow and that employers need this type of housing. He is a member of the executive board for Citizens for Modern Transit and is excited to see this Transportation Oriented Development (TOD) project.

John Brightman, resident, addressed the Board stating that he is not opposing the apartment building, but is in objection of the tax abatement.

Joe Connelly, resident of 25 years, addressed the Board stating that the citizens elected the Board and trusted them to make good decisions and expressed that he is in opposition of the project.

Judy Medoff, resident, addressed the Board expressing her concerns on the tax abatement and its impact on the School District.

Mark Alper, 155 Carondelet Plaza, addressed the Board stating that he is pleased that the Board has approved this project and think that it is good for the City.

Jim Datema, Davis Place resident, addressed the Board stating that he is in favor of the project and it is good for the City.

Steve Singer, 30 year resident and past member of the School Board, addressed the Board stating that he is saddened by the City's position to consider approving this project and the tax abatement. He urged the Board to reconsider and possibly sit-down with the School District and discuss the issue.

Charlene Connelly, wife of Joe Connelly, addressed the Board stating that she has seen this plan in the works for the past seven years and is very much in favor of the project. She stated that this project will provide more money to the School District and the community.

A MOTION TO CONSIDER AN APPEAL OF THE PLAN COMMISSION/ARCHITECTURAL REVIEW BOARD ACTION FOR 7120 WYDOWN BOULEVARD – NEW SINGLE FAMILY RESIDENCE

City Manager Owens reported that this is an appeal submitted by Mark and Alisse Ellebrecht, owners of 5 Harcourt Drive, of the Plan Commission's/Architectural Review Board's (ARB) decision to approve the site plan and architectural aspects associated with the proposed construction of a new single family residence and detached garage at 7120 Wydown Boulevard.

The proposed project consists of the demolition of an existing 3,177-square-foot single-family residence and the construction of a new 5,857-square-foot single-family residence and 644-square-foot detached garage. The height of the proposed residence is 29 feet 11.75 inches as measured from the average existing grade to the mean height of the roof.

This request was first presented to the Plan Commission and ARB on August 18, 2014, and, based on comments received at the meeting, was continued at the request of the Plan Commission/Architectural Review Board. Subsequently, the applicant made several revisions to the plans including changing the proposed roofing material for the detached garage from standing seam metal to slate, increasing the detached garage's rear yard setback from 10 feet to 14 feet and side yard setback from approximately 7 feet to 10 feet, reducing the size of the detached garage from 923 square feet to 644 square feet, reducing the height of the detached garage from approximately 14.5 feet to 11 feet (as measured from average existing grade to the mid-point of the roof), and adding a raised planting bed (maximum 3 feet tall) to provide a landscape buffer of seven evergreens (Emerald Green Arborvitae), planted 3.5 feet on center along the entire south side of the garage.

At the September 2, 2014 Plan Commission/Architectural Review Board meeting, the Plan Commission reconsidered the site plan and voted 5 – 2 to approve. The Architectural Review Board reconsidered the design and materials and voted 6 – 1 to approve. Pursuant to Section No. 400.230 "Appeals", an aggrieved party may, within 15 days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decision of the Architectural Review Board. Also, pursuant to Section 405.1090 "Appeals", an aggrieved party may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decision of the Plan Commission. The written request must set forth in a concise manner the decision being appealed and all grounds known to the appellant as to wherein and why the decision is allegedly in error.

On September 16, 2014, the City received a letter dated September 15 2014, from Mark and Alisse Ellebrecht, adjoining property owners, appealing the Plan Commission and Architectural Review Board's decision to approve the proposed project. The appeal challenges the project's design and compatibility with the surrounding neighborhood.

Recommendation is to consider the Appellants' written request for an appeal of the Plan Commission/Architectural Review Board's decision. The Board may consider the appeal on the record of the prior decision by the Architectural Review Board, or may at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances. The Board shall approve, modify or disapprove the request for appeal.

Bruce Korn, co-owner of Higginbotham Brothers Construction, addressed the Board on behalf of Deb Hauck and Reed Murphy, owners. He said that the project was originally introduced at a greater scale, but has since been reduced. He provided a PowerPoint presentation of the site plan that shows those key changes.

City Attorney O'Keefe asked that the Board take administrative notice and receive into evidence the files and records of this matter as it proceeded before the Architectural Review Board so that all that information is in the record and before the Board.

Elise Camazine, owner of home behind the subject area, addressed the Board expressing her opposition to the project due to its size, loss of trees, loss of park-like setting and that it doesn't conform to the indentures.

Alderman Garnholz asks Ms. Camazine to clarify that her main objections to the project focus on the size of the detached garage and the loss of trees. Ms. Camazine answered, yes, those are her main objections.

Andrew Bernhardt, Claverach Park resident, addressed the Board with his concerns that the detached garage does not conform to the neighborhood and expressed his disapproval of a metal roof and the tax abatement.

Phil Bolian, 7 Harcourt, addressed the Board with concerns of water run-off, stagnant water and mosquito problems. Request that the City take action to protect and not destroy the neighborhoods. He is concerned about the possible destruction of the neighborhood by the kinds of buildings and construction that is being proposed.

Mary Otto, 3 Harcourt Drive, addressed the Board with concerns regarding the clear cutting and loss of trees and the park-like setting. She expressed her opposition to the "footprint" of the house, the detached garage, and the metal roof.

Chris Schmidt, addressed the Board with concerns on the scale of the house and the neighborhood's previous change in indentures regarding detached garages.

Sandy Strucker, Claverach park resident, addressed the Board regarding the possibility of losing the park-like setting of the neighborhood related to the proposed plans for the house and garage and stated that new building projects should enhance the neighborhood and not distract from the neighborhood.

Lisa Graivier, 44 Ridgemoor, addressed the Board regarding the size of the home and garage, storm water issues, neighborhood indentures. She urged the Board to over-rule the ARB decision.

Reed Murphy, owner of 7120 Wydown, addressed the Board by providing a Powerpoint presentation of the proposed plans/changes and provided a handout of the Rebuttal to Ellebrecht Appeal (available in the City Clerk's office). After the presentation Mr. Murphy wanted to thank the City and the ARB for the process and their patience and asked that the Board deny the appeal.

Mayor Sanger clarified that the Board can approve, modify, deny, or take the issue under advisement.

In response to Alderman Lintz' question, City Attorney O'Keefe stated that the appeal brings the application to the Board; therefore the Board is considering the application for Architectural approval. He also included as part of procedure that the chairs' confirmation that the records and files of evidence as referenced by the parties would be received in evidence.

Mayor Sanger noted that letters received regarding the appeal for this project will be noted in the record (attached).

In response to an audience member's question, Alderman Harris confirmed that 90% of the properties in the neighborhood were originally built with detached garages, but around 1933 indentures were developed that

disallowed detached garages. Subsequent to that time there are some homes that have been built, but are all with existing homes that they have been trying to work with existing footprints and preserve and invest in the existing structures. The detached garages that exist are for the existing homes only, all new builds have attached garages as per the request of the Claverach Trustees.

Mayor Sanger reminded everyone that the indentures set by the neighborhood trustees are not an issue for the Board of Aldermen and are a civil matter. The City has no enforcement power or relationship.

Alderman Berger commented that the Board relies on City staff to make an evaluation of all materials submitted, but having seen tonight the new packet of information provided to the Board by the owner he would like to have more time/opportunity to review before moving forward.

Alderman Harris stated that there are homes in every neighborhood that they wish were built differently and she believes that there are some issues with the design of the home that supersede technicalities, i.e. number of trees being removed, height of the garage. She believes that to include the use of metal materials for the roof and the overall scale of the project (detached garage) it would not be compatible nor does it maintain the character that is inherent with the surrounding neighborhood. She understands that it is the Board's job to look at the criteria by which ARB approves or disapproves projects, but in this case that criterion just doesn't ring true to her. She noted that there are good materials being used (i.e. slate, brick, stone), but as it relates to the detached garage she feels that the designs could instead include an attached garage.

Alderman Boulton stated that she has looked at the criteria for review and she has a major issue with compatibility. She said that there is a look to all neighborhoods and there is massing of scale and size and the owners need to figure out how to fit in with both the short house to the west and the more robust house to the east.

Alderman Lintz agreed with both Aldermen Berger and Boulton and commented that the packet of information was nicely done and answers a lot of questions. It is a lot of information and he would prefer more time to review the new packet of materials.

Alderman Garnholz added that the detached garage interferes with the park-like setting of Claverach Park. She would be happier if the garage was integrated closer to the home.

Alderman Boulton added that being on Wydown, our signature street, it is almost more important that it fits in with the neighborhood and referenced a home at 6431 Wydown which had appropriate massing even though it is architecturally more modern in style.

Alderman Berger supported Alderman Garnholz's concerns regarding the garage. He said that the detached garage. He said that with new homes there is going to be variance this project will create a peak to the roof whereas the two homes on each side have flat roofs. When one goes through the neighborhoods houses that are being replaced are going to be of larger scale and he feels there is a value-add to that for everyone to consider.

Alderman Harris commented that the scale of the home can be softened in certain ways; one way that she has researched with the Planning department is to have a step-down approach toward the side that approaches the lower structure. It does not create a complete stark, unbroken roof line that won't relate to the other homes and she offers this suggestion as a possible consideration.

Alderman Winings commented that as the Aldermanic liaison to the Plan Commission he has seen the presentation twice and tonight's presentation is even more robust. He has heard the comments from the residents and said that a lot of the concerns seem to relate to terms like setbacks, detached garage, tree removal, building height – all things that are permitted by Clayton's current ordinances. He said that he voted in favor of the project at the Plan Commission meeting and he still believes it meets the City's objective requirements and he also believes it is a very nice looking house. He understands the concerns, but thinks a lot of those concerns raise further reaching policy questions for the Board to consider regarding the tree policy and the setback requirements. This proposal meets those objective requirements and he will vote against the appeal.

Alderman Boulton commented that she would agree objectively that yes, for any R-2 District, but what we have always have had in the ordinances and what we have to keep very close to us because of the historic nature of our neighborhoods is the issue of compatibility.

Alderman Berger stated that this is a mediation opportunity in defining the neighborhoods, Claverach Park and/or the Wydown facing neighborhood, but understands the Boards' point of view.

Alderman Harris commented that all neighborhoods make Clayton what it is and regardless of whether it is the Wydown facing neighborhood or the internal neighborhood of Claverach Park, they are all important and all worth preserving.

Alderman Harris moved to deny the application for architectural approval for this development based on the following factors which she believes makes the plan incompatible with the character inherent within the surrounding neighborhood. That would be the large scale, the detached garage, and the metal roofing material and she would direct staff to prepare findings of fact for consideration at a later time. Alderman Garnholz seconded.

Mayor Sanger suggests that the motion include that the project should be resubmitted.

Alderman Harris moved as modified. Alderman Garnholz seconded.

Mayor Sanger clarified that if the vote passes the applicant cannot bring back the same project for one year unless it is substantially changed based on the determination of the Plan Commission/ARB.

Alderman Harris commented that if the denial of the application is approved then hopefully the applicant will go back to the ARB soon with modifications that are requested tonight so they can reevaluate.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Nay; Alderman Boulton – Aye; Alderman Berger – Nay; Alderman Lintz – Nay; and Mayor Sanger – Aye. The motion passed to approve the appeal.

In response to Mr. Murphy's question, City Attorney O'Keefe explained that they would have to submit an application to the ARB for review.

A PUBLIC HEARING AND AN ORDINANCE AMENDING ORDINANCE NO. 6317 – APPROVING THE PLANNED UNIT DEVELOPMENT FOR 8025 BONHOMME AVENUE (CLAYTON ON THE PARK)

Mayor Sanger opened the public hearing and requested proof of publication.

City Manager Owens reported that this is a public hearing to solicit input and a subsequent ordinance amending Ordinance No. 6317, adopted May 13, 2014, regulating the use of the property at 8025 Bonhomme

Avenue (Clayton on the Park) to allow the operation of a salon, open to the public, on the third floor of the subject building.

In 2007, the use of the property changed from apartments to a senior living facility. A salon opened in one of the third floor units as an amenity for the residents. Because the salon did not serve the public, an amendment to the Planned Unit Development Ordinance was not required. In 2012, use of the property reverted back to apartment units.

Garrick R. Hamilton, The Koman Group's General Counsel, on behalf of COTP, LLC, property owner, is requesting an amendment to the Planned Unit Development Ordinance to allow Larz Salon, formerly located at 7730 Bonhomme Avenue, to continue their 3rd floor operations serving the general public.

The Planned Unit Development (PUD) ordinance for this property requires "that the commercial component, located on the first floor, not exceed three thousand square feet." Larz Salon occupies approximately 950 square feet of the third floor which also consists of building amenities including an exercise area, game room and pet grooming area. Hours of operation for Larz Salon are 8 a.m. to 5 p.m., Monday through Saturday and by appointment only on Sunday.

In response to Mayor Sanger's question, Garrick Hamilton, Koman Group, addressed the Board stating that customers will enter the building through the lobby area and then guided to the salon by the building's doorman or security.

Mayor Sanger closed the public hearing.

Alderman Harris introduced Bill No. 6469, an ordinance to approve an amendment to the Planned Unit Development at 8025 Bonhomme Avenue to allow the operation of a salon on the third floor of the building for the first time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6469, first reading, an Ordinance Amending Ordinance No. 6317 Approving A Planned Unit Development For The Clayton On The Park Property At 8025 Bonhomme Avenue, Subject To The Requirements Set Forth In The Code Of Ordinances Of The City Of Clayton, Missouri; And Other Actions Related Thereto.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6469, an ordinance to approve an amendment to the Planned Unit Development at 8025 Bonhomme Avenue to allow the operation of a salon on the third floor of the building for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6469 second reading, An Ordinance Amending Ordinance No. 6317 Approving A Planned Unit Development For The Clayton On The Park Property At 8025 Bonhomme Avenue, Subject To The Requirements Set Forth In The Code Of Ordinances Of The City Of Clayton, Missouri; And Other Actions Related Thereto.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6343 of the City of Clayton.

AN APPROVAL OF AN ORDINANCE TO CONSIDER AMENDING ORDINANCE NO. 6319 BY REPEALING SECTION THREE OF THE ORDINANCE AND INSERTING A NEW SECTION

City Manager Owens reported on April 8, 2014, an election was held in the City of Clayton and a majority of the voters approved a 1/4 of one-cent sales tax for the operations of the Clayton Fire Department. On May 13, 2014, the Board of Aldermen approved an ordinance levying the new sales tax and this ordinance was filed with the Missouri Department of Revenue per state statute for implementation on October 1, 2014.

The City received a question regarding the implementation of the new sales tax and unfortunately through a miscommunication the City implied that we wanted the new sales tax to be applied to residential utility bills, or domestic utilities as it is referred to in the ordinance. This tax on residential utilities would generate \$125,000 per year, but none of our other current sales taxes apply to this category, nor are any sales taxes levied on residential utilities by other St. Louis County cities. The ordinance approved in May authorized the City to implement the tax on domestic utilities, but we are not required to do so.

This issue is only related to residential gas, electric and water service and there are few utility providers. We have contacted each of them with a written communication asking them to not begin levying the new sales tax on residential bills until we are able to offer the attached ordinance for your consideration. Through these communications, we have had positive feedback that they will comply. If the Board passes the attached ordinance eliminating the application of this tax to residential utility bills, and the utility companies do apply the tax in the meantime, the tax is 1/4 of one cent so the amount of tax would be very small per bill and would end at the end of this quarter.

Recommendation is to amend the original ordinance by repealing Section Three and inserting a new section which does not apply the new sales tax to domestic (residential) utilities.

Alderman Harris introduced Bill No. 6470; to approve an amendment to Ordinance No. 6319 eliminate the inclusion of domestic utilities, to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6470, first reading, an Ordinance Amending Ordinance No. 6319 Of the City of Clayton, Missouri, Amending Said Ordinance to Eliminate the Inclusion of Domestic Utilities by Repealing Section Three and Inserting a New Section.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6470; to approve an amendment to Ordinance No. 6319 eliminate the inclusion of domestic utilities, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6470, second reading, an Ordinance Amending Ordinance No. 6319 Of the City of Clayton, Missouri, Amending Said Ordinance to Eliminate the Inclusion of Domestic Utilities by Repealing Section Three and Inserting a New Section.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6344 of the City of Clayton.

AN ORDINANCE TO CONSIDER APPROVING A SETTLEMENT AGREEMENT WITH CENTURYLINK LANDLINE AND ASSIGNING A PORTION OF THE SETTLEMENT PROCEEDS TO THE ST. LOUIS COUNTY MUNICIPAL LEAGUE

City Manager Owens due to the City's involvement in a class action lawsuit against telecommunications service providers for back taxes due, the class action group has received a proposed settlement with CenturyLink related to excluding various revenue streams from the tax base. Previous settlements for back

taxes have been approved with other telecommunications providers such as Verizon, Sprint, and AT&T since 2007.

The terms and conditions of the class action settlement are essentially the same with CenturyLink as with past providers. The amount of the settlement the City would receive is \$38,455.53.

Staff is proposing that \$1,900 of the settlement be assigned to the St. Louis County Municipal League for revenues expended in its legislative and settlement efforts relating to the lawsuit and to fund future services performed on behalf of the League's member municipalities. This amount represents approximately 5% of the City's settlement amount and is similar to percentages assigned on previous settlements.

Recommendation is to approve the ordinance authorizing the settlement with CenturyLink with a portion assigned to the St. Louis County Municipal League.

Alderman Harris moved to approve Bill No. 6471, to approve an ordinance authorizing a settlement with CenturyLink and assigning a portion to the St. Louis County Municipal League, to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6471 second reading, An Ordinance Approving A Settlement Agreement With Centurylink Landline And Assigning A Portion Of The Settlement Proceeds To The St. Louis County Municipal League.

Alderman Harris moved to approve Bill No. 6471, to approve an ordinance authorizing a settlement with CenturyLink and assigning a portion to the St. Louis County Municipal League, to be read for the second time by title only. Alderman Garnholz seconded.

Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6345 of the City of Clayton.

A MOTION TO CONSIDER APPROVING TO INCREASE THE MUNICIPAL JUDGE COMPENSATION

City Manager Owens reported that staff received a request from Aldermen Garnholz regarding whether the City's municipal judge was being appropriately compensated. This prompted staff to perform a survey of several cities regarding judge compensation. The survey results showed that the compensation each city pays varies substantially. It has been many years since our judge's compensation was evaluated and increased. From analyzing the data received, the FY15 budget reflects approval for the judge's compensation to be increased from \$300 per session to \$533 per session, for a total of approximately \$1,600 per month. This amount was chosen because it is a similar rate to the cities that were surveyed and also have three court sessions per month like Clayton.

Alderman Garnholz commented that she feels \$533 is too low and recommended \$600 per session, or \$1800 per month.

Alderman Harris moved to amend the motion to approve \$1,800 per month for the judge compensation. Alderman Garnholz seconded.

The motion passed on a voice vote of 5-Ayes; 1-Nay by Alderman Berger.

AWARDS AND PRESENTATIONS

City Manager Owens reported that the City has received for the fourth year in a row the ICMA's Certificate in Excellence Award.

Other

None

There being no further business the meeting was adjourned at 9:40 p.m.

Mayor

ATTEST:

City Clerk